

ESTTA Tracking number: **ESTTA226530**

Filing date: **07/25/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Strictly Health Corporation
Granted to Date of previous extension	07/26/2008
Address	40 East Main Street Suite 357 Newark, DE 19711 UNITED STATES
Attorney information	Gregory F. Buhyoff Law Office of Gregory F. Buhyoff, P.C. 8440 W. Lake Mead Blvd.Suite 202 Las Vegas, NV 89128 UNITED STATES GBuhyoff@gfblaw.com Phone:(702) 243-2200

Applicant Information

Application No	77299843	Publication date	05/27/2008
Opposition Filing Date	07/25/2008	Opposition Period Ends	07/26/2008
Applicant	Spectrum Distribution and Marketing, Inc. 8025 Haskell Ave. Unit #103 Van Nuys, CA 91406 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Dietary and nutritional supplements; Dietary food supplements; Dietary supplemental drinks

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Applicant's prior common law use of HOODIA SHOT mark and federal rights under 15 U.S.C. Section 1125 based on Applicant's prior widespread use of the HOODIA SHOT mark in commerce throughout the United States

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
-----------------------------------	------	------------------	------

Registration Date	NONE
Word Mark	HOODIA SHOT
Goods/Services	dietary supplement which suppresses the appetite, thereby helping to achieve weight loss and engender a sense of well-being in the person taking the dietary supplement

Attachments	77299843 - Notice of Opposition.pdf (5 pages)(131178 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Gregory F. Buhyoff/
Name	Gregory F. Buhyoff
Date	07/25/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEALS BOARD

In the Matter of Trademark Application

Applicant: Spectrum Distribution and Marketing, Inc.
Serial No.: 77/299,843
Filed: October 9, 2007
Mark: Hoodia Shot
Int'l Class: 005
For: "Dietary and nutritional supplements, Dietary
food supplements; Dietary supplemental drinks"

Published: May 27, 2008

_____)	
Strictly Health Corporation,)	
)	
Opposer,)	
)	
vs.)	Opposition No. _____
)	
)	
Spectrum Distribution and Marketing, Inc.,)	
)	
Applicant.)	
_____)	

Commissioner for Trademarks
P.O. Box 1451
Arlington, Virginia-22313-1451

NOTICE OF OPPOSITION

Opposer, Strictly Health Corporation (hereinafter "Opposer" or "Strictly Health"), is a corporation duly organized and existing under the laws of the state of Delaware, with its principal office located at 40 East Main Street, Suite 357, Newark, Delaware 19711.

Opposer believes it will be damaged by, and therefore opposes intent-to-use Application Serial No. 77/299,843 ("the Application"), which seeks to register the mark Hoodia Shot for "[d]ietary and nutritional supplements, [d]ietary food supplements; [d]ietary supplemental drinks." The Application was filed on October 9, 2007 by Spectrum Distribution and Marketing, Inc. , a California corporation with its principal office located at 8025 Haskell Ave., Unit #103, Van Nuys, California.

As grounds for opposition, Opposer alleges:

1. Opposer is the owner of all trademark and other rights in the United States, including common law rights and rights conferred by federal law, to the mark HOODIA SHOT for a dietary supplement ("Opposer's Goods") which suppresses the appetite, thereby helping to achieve weight loss and engender a sense of well-being in the person using Opposer's Goods.
2. Opposer's trademark rights derive from the fact that Opposer has been actively and continuously using the HOODIA SHOT mark ("Opposer's Mark") in United States commerce in connection with Opposer's Goods since at least as early as May 8, 2007.
3. As a result, the consuming public has come to recognize Opposer's HOODIA SHOT mark as favorably distinguishing Opposer's Goods from the same or similar goods sold by others in United States commerce.
5. Applicant now seeks to register the mark Hoodia Shot, which is identical to Opposer's Mark, for essentially the same goods as the goods for which Opposer has been using the HOODIA SHOT mark. Applicant intends to offer (or is already offering) its "Hoodia Shot" or "HOODIA SHOT" goods through the same or very similar channels of trade, and to the same or similar class of consumers as Opposer's Goods.

6. As a result for the foregoing, consumers, upon purchasing, using, or otherwise receiving Applicant's goods bearing the Hoodia Shot mark, are very likely to be confused, mistaken and/or deceived, and are likely to believe in the existence of some affiliation, association, connection, or sponsorship relationship between Opposer and Applicant, or Opposer's Good and Applicant's goods, all to the injury of Opposer and Opposer's Mark.

7. If Applicant is permitted to use and register the Hoodia Shot mark for its goods as specified in the Application, Opposer would suffer further damage and injury:

(a) because Applicant would enjoy at least a prima facie exclusive right to use the Hoodia Shot mark and prevent the use of the same or similar marks;

(b) because competitive harm to Opposer would result from the appearance of exclusive rights for Applicant in the Hoodia Shot mark when in fact Opposer clearly has priority with respect to the use of the Hoodia Shot mark and any marks confusingly similar thereto, in the United States for "dietary supplements" and related or similar goods.; and

(c) because Applicant's registration of the Hoodia Shot mark would impair or prevent Opposer from successfully registering its own HOODIA SHOT mark with the United States Patent and Trademark Office.

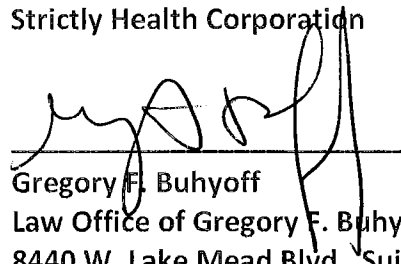
Based on the foregoing, and while reserving all of its other rights, Opposer prays that Application Serial No. 77/299,843 be rejected, that the Hoodia Shot mark that is the subject of the Application be denied and refused registration for the goods in International Class 005 identified therein.

Applicant respectfully requests that all correspondence in connection with this opposition be sent to the undersigned.

Dated: July 25, 2008

Respectfully submitted,

Strictly Health Corporation

A handwritten signature in black ink, appearing to read 'Gregory F. Buhyoff', is written over a horizontal line.

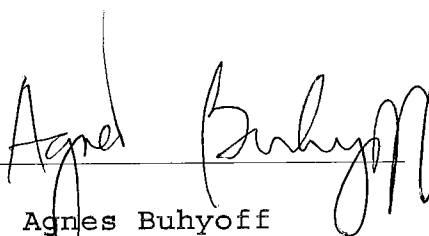
Gregory F. Buhyoff
Law Office of Gregory F. Buhyoff, P.C.
8440 W. Lake Mead Blvd., Suite 202
Las Vegas, Nevada 89128

Attorney for Opposer

CERTIFICATE OF MAILING

I, Agnes Buhyoff, hereby certify that on July 25, 2008, I mailed a copy of the foregoing Notice of Opposition to each of the following by depositing the same in the United States Mail, first class postage fully prepaid thereon, addressed to:

Laurie S. Thompson, Esq.
Greenberg Traurig LLP
Suite 500 North
3773 Howard Hughes Parkway
Las Vegas, Nevada 89169



Agnes Buhyoff